

See the Statutes 15 R. 2, c. 3; 8 H. 6, c. 9; 31 Eliz. c. 11; 21 Jac. 1, c. 15 *infra*.

It appears to be settled, though there have been opinions to the contrary, that an entry on lands with force, where a man has a right of entry, is an offence at common law,¹ but an indictment must charge such force as amounts to a breach of the public peace; the distinction being taken in *R. v. Wilson*, 8 T. R. 357, (and see the cases there cited) between the charge of entering even a dwelling house *vi et armis* simply, and entering it *manu forti*, which latter averment distinguishes the offence from an ordinary trespass, and see also *R. v. Smyth*, 5 C. & P. 201; S. C. 1 M. & Rob. 155.

What is a forcible entry.—It is laid down that a man may be guilty of a forcible entry into a church and the like, *R. v. March*, 1 Sid. 101; *Baudes'* case, Cro. Jac. 41; or into incorporeal hereditaments whereof a writ of entry will lie, as rents or tithes, *Anon. Cro. Car.* 201; but *Hawkins*, 1 Haw. P. C. 282, doubts as to commons and offices, and it is clear that the Statutes do not apply to a case of violence offered to another in respect of a way, or such like easement which is no possession, *R. v. Holmes*, 1 Mod. 73.

A person cannot be guilty of a forcible entry who breaks open his own dwelling house, forcibly detained from him by one claiming the bare custody of it, *Lady Russell's case*, Cro. Jac. 18. But in *R. v. Smyth supra*, Lord Tenterden thought that a married woman might be indicted for a forcible entry in coming on her husband's premises with a strong hand; and it appears from *Doe v. Daly*, 8 Q. B. 934, that, at all events, her husband as lessor of the plaintiff may recover from her in ejectment, for the relation of husband and wife does not authorize her to take forcible possession of the premises to his exclusion, and any technical difficulty is avoided by the circumstance that he is not the plaintiff on the record. And a married woman, as well as an infant, may generally be guilty within the intention of the Statutes for any actual violence done by them in person, but not for violence done at their command; but a distinction is here taken, that though a *feme covert* may be imprisoned, it seems an infant shall not, for

¹ But see *Manning v. Brown*, 47 Md. 511, where it is said: "At the common law, and prior to the old statutes to restrain forcible entries, wherever a right of entry existed, the party entitled to such right might lawfully enter, oust the disseissor, and regain possession by force, if force was necessary for that purpose. The exercise of this right frequently gave rise to tumult and breaches of the peace, and to restrain such disorders the Statute 5 R. 2 c. 8 was enacted." Cf. *Carter v. Woolfork*, 71 Md. 288.

These statutes of forcible entry and detainer have been in force in Maryland from its earliest history and their provisions are not in any way restrained, or controlled, by the declaratory provisions in the Declaration of Rights. *State v. Glenn*, 54 Md. 603.

A license by tenant to landlord to eject him on a specified day without any process of law is void as authorizing the commission of an act which is a crime under the Statute. *Edwick v. Hawks*, 18 Ch. D. 199.